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Honorable Eric R. Komitee
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East

Brooklyn, New York 11201 Re: *U.S. v. Orena*; 92-cr-351 (EK) (Related: 20-cv-4548 (EK))
* Via ECF *

Dear Judge Komitee:

I represent the Defendant (Movant), Mr. Victor Orena, in the above-referenced case. As the Court will recall, the Court denied Mr. Orena's motion for compassionate release on October 27, 2021 [ECF# 1876] and that decision was upheld by the Second Circuit. This Court received the Mandate from the Court of Appeals on November 28, 2022, reflecting that affirmance. [ECF# 1910]. I am planning to file a petition for a writ of *certiorari* on the primary ground that the decision cannot be reconciled with the United States Supreme Court's decision in *Concepcion v. United States*, –U.S.–, 142 S. Ct. 2389, 213 L. Ed. 2d 731 (June 27, 2022) and lower court cases applying that decision.

I wanted to provide that procedural background; but I am writing today on a more pressing matter. A short while ago, I received word that Mr. Orena's family received a call from a doctor Murray, a doctor associated with the prison facility where Mr. Orena is incarcerated. I am told that Dr. Murray advised Mr. Orena's son that Mr. Orena has just had a heart attack. They discussed options for dealing with it across a spectrum. End of life authorization plans were also discussed, given the development. The family has asked that treatment proceed.

I am advised that Mr. Orena currently is hospitalized. I put in a call to Dr. Murray at the family's request and he graciously returned my call, while appropriately explaining that he could not discuss patient details with me. He confirmed that the family is not permitted to visit and would not even know what hospital Mr. Orena is in, but that the hospital was asked to reach out to the son who has the authority to make health care decisions for Mr. Orena. As the Court will recall, Mr. Orena has advanced dementia and a history of serious heart ailments on his list of serious/terminal medical conditions.

The Court's Order denying Mr. Orena's compassionate release motion provided the following: "The motion is denied without prejudice to renew in the event of significant developments in Orena's habeas proceeding or significant further deterioration of his health." [ECF# 1876 at 10]. Since I do not have the full details, I am not in a position to formally renew his compassionate release motion; but I wanted, at a minimum to alert the Court to this significant matter of "further deterioration" in Mr. Orena's health. Perhaps Government counsel will obtain the relevant information I cannot obtain and will provide a report to the Court.

Respectfully,

/s/ David I. Schoen
Counsel for Victor J. Orena

cc: AUSA Devon Lash, Esq. (Via ECF)